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## NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 01/30/2009

MRS. SANDRA M. WORTH  
WATER MEADOW NURSERY CHERITON  
NR. ALRESFORD, HAMPSHIRE, S024 OQB  
UNITED KINGDOM

EXAMINER

BELL, KENT L

ART UNIT

PAPER NUMBER

1661

DATE MAILED: 01/30/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/619,411

07/16/2003

James Peter DeWelt

4855

TITLE OF INVENTION: PAPAVER SUPER POPPY PLANT 'HEARTBEAT'

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$595	\$300	\$0	\$895	04/30/2009

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

### HOW TO REPLY TO THIS NOTICE:

#### I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

7590 01/30/2009

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## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,411	07/16/2003	James Peter DeWelt		4855

TITLE OF INVENTION: PAPAVER SUPER POPPY PLANT 'HEARTBEAT'

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$595	\$300	\$0	\$895	04/30/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
BELL, KENT L	1661	PLT-464000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_
- 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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10/619,411	07/16/2003	James Peter DeWalt		4855

7590 01/30/2009

MRS. SANDRA M. WORTH  
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UNITED KINGDOM

EXAMINER

BELL, KENT L

ART UNIT

PAPER NUMBER

1661

DATE MAILED: 01/30/2009

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 645 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 645 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/619,411	DEWELT, JAMES PETER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kent L. Bell	1661	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed July 20, 2007.
2. ☒ The allowed claim(s) is/are THE CLAIM.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|  | 9. <input type="checkbox"/> Other _____.   |

/Kent L. Bell/  
Primary Examiner, Art Unit 1661

**Status of Application**

Applicant's amendments to the specification, Claim, and abstract filed August 25, 2004 have not been entered. The following is an Examiner's amendment re-writing the entire specification, Claim, and abstract.

**Examiner's Amendment**

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **Must** be submitted no later than the payment of the Issue Fee.

**Amendment to the Specification:**

The Specification has been amended as follows:

A. The Specification has been deleted and a new Specification has been entered:

-- **Papaver Super Poppy Hybrid Plant 'Heartbeat'**

**Genus/species:**

*Papaver hybrid*

**Variety Denomination:**

‘Heartbeat’

**Background of the Invention:**

The present invention relates to a new and distinct *Papaver* super poppy hybrid plant named ‘Heartbeat’. The new *Papaver* is a product of a planned breeding on September 25<sup>th</sup> 1997, by the inventor in Atascadero, in the County of San Luis Obispo California U.S.A. The new *Papaver* is an inter-specific hybrid, originated from a cross pollination of the following *Papaver* species: *Papaver atlanticum*, *Papaver californicum*, *Papaver rupifragum*, *papaver somniferum*, and *Papaver orientale*.

The inventor selected the new *Papaver* in 1998 from the resulting progeny on the basis of its floriferousness, remarkable coloration, and its vigor.

The breeding scheme was *Papaver hybrid* X *Papaver orientale* of an unnamed cultivar. The female, or seed parent, of this sowing being an inter-specific hybrid of the species *Papaver atlanticum*, *Papaver californicum*, *Papaver rupifragum*, *papaver somniferum*, and *Papaver orientale*. The male, or pollen parent, was an unnamed *Papaver orientale* seedling of unknown parentage. Trials were set up in both Atascadero in the County of San Luis Obispo California U.S.A. from 1998 to 2001 and at the National Collection of *Papaver* U.K. in Cheriton Hampshire England U.K. from 200 to 2002.

Asexual reproduction of the new *Papaver* super poppy hybrid plant ‘Heartbeat’ was accomplished by cuttings at Atascadero U.S.A. The instant plant has shown that

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the unique features of this new Papaver are stable and reproduces true to type in successive generations of asexual reproduction.

**Brief Summary of the Invention:**

Plants of the Papaver super poppy hybrid plant 'Heartbeat' have not been observed in all possible environmental conditions. The phenotype may vary somewhat with variations of the environment such as temperature, light intensity, day length, and fertility level without, however, any variance in genotype.

The following trials have been repeatedly observed and are determined to be the unique characteristics of 'Heartbeat':

1. Upright habit with thick supporting stems.
2. Dark, glossy, green foliage.
3. Large semi double purple/maroon flowers.
4. Thick, glossy flower petals that withstand the rigors of ultra violet rays, rain, and wind.
5. Plants flower for a long period.
6. Vigorous growth habit.

**Brief Description of the Drawings:**

The accompanying colored photographs illustrate the overall appearance of the new cultivar, showing the colors as true as it is reasonably possible to obtain in colored reproductions of this type. Colors of the photograph may differ slightly from the color

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values cited in the detailed botanical description which accurately describe the actual colors of the new cultivar. All photographs are of a mature plant (3 years old) of *Papaver* super poppy hybrid 'Heartbeat' grown in garden soil.

**Figure 1.** The top photograph shows buds, stems, bracts, scales, and a side view of an opening flower of 'Heartbeat'. The bottom photograph shows a close-up view of a typical flower of 'Heartbeat'.

**Figure 2.** Top photograph shows a mature leaf of 'Heartbeat'. The bottom photograph shows a close up of a side view of the stem, scales, small bract, black vein lines, and the opened bowl shaped flowers of 'Heartbeat',

**Figure 3.** This photograph shows three stems, bracts, scales, and seed capsules of 'Heartbeat' placed on the right of the photograph. The left of the photograph shows *Papaver oriental* 'Royal Chocolate Distinction' showing the seed capsule, stem, bracts, and scale.

### **Detailed Botanical Description:**

In the following description color references are made to The Royal Horticultural Society Color Chart except where general terms of ordinary dictionary significance are used. Plants used for the description was three years old and classed as mature and grown in garden beds with normal garden soil. 'Heartbeat' is an inter-specific hybrid seedling from a sowing of seed on September 25<sup>th</sup> 1997 in the City Atascadero, in the County of San Luis Obispo, California.

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**Plant Description:**

**Form:** Robust hispid perennial flowering plant with upright, sturdy, erect, and tall flowering stems, the foliage forming a symmetrical arching circle around the plant.

**Plant Height:** About 36 inches.

**Plant Diameter:** About 24 inches.

**Propagation:**

**Type:** Cuttings.

**Time to develop roots:** Cuttings harvested in October will develop roots in February in the Northern Hemisphere.

**Root Description:** Fleshy.

**Crop Time:** About 20 weeks are required to produce finished flowering plants for a 2 liter container.

**Foliage Description:** Leaves simple, generally symmetrical and long persisting.

**Arrangement:** Alternate and irregular.

**Shape:** Lanceolate, pinnately and deeply dissected.

**Length:** About 20 to 22 inches.

**Width:** About 7 inches.

**Leaf Apex:** Acuminate to acute.

**Leaf Base:** Attenuate.

**Leaf Margin:** Serrate to Serrulate.

**Leaf Attachment:** Sessile.

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**Leaf Texture:** Glossy, slightly rugose; Both upper and lower surfaces covered with pale grey to greenish white hairs between 1/16 inch to 1/8 inch in length.

**Young foliage upper surface:** 137C.

**Young foliage lower surface:** 137D.

**Mature foliage upper surface:** Closest to 137A to 137B, veins 145D.

**Mature foliage lower surface:** Closest to 137C, veins 144B.

**Flower Description:**

**Flower Type and Habit:** Large size, 6 petals, semi-double flowers circular in shape, set with three outer overlapping petals and three more upright inside petals overlapping, the edges to all petals ruffled and slightly pleated, and one or two petals may have some serrated edges to the margins. Flowers upward and outward facing. Flowers not persistent. Freely flowering typically about 12 flowers and flowering buds at one time.

**Natural Flowering Season:** Late spring to early summer.

**Rate of Opening:** About 3 weeks from visible bud to open flower.

**Fragrance:** Not detected.

**Flower Longevity on the Plant:** Average 7 to 8 days before petals drop.

**Flower Size:**

**Flower Diameter:** 5.5 inches to 7.5 inches.

**Flower Depth:** About 3.5 inches.

**Bud:** (Before showing color) Oblong with domed bulbous top.

**Bud Color:** (Outside surface) 137C with maroon to purple dot 71A.

**Length:** About 2.25 inches.

**Diameter:** About 1.25 inches.

**Texture:** Hispid covered with white, pale green to maroon red hairs about 1/16 inch to 1/8 inch.

**Corolla arrangement/appearance:** 6 overlapping petals forming a bowl shape, base indented to stem and bracts.

**Petal Length:** About 4 inches.

**Petal Width:** About 6.5 inches.

**Petal Shape:** Orbicular to Reniform.

**Petal Apex:** Obtuse.

**Petal Base:** Truncate to Reniform.

**Petal Margin:** Very fine crenulated edges, one or two petals may have incised margins but this is not constant.

**Petal Texture:** Thick and satin smooth.

**Petal Color:** Deep maroon with purple and slight brown tones.

**Petal Color Upper Surface When Opening:** Red Purple 59A to 59B.

**Petal Color Lower Surface When Opening:** Closest to 59A.

**Petal Color, Base:** Black venation lines extending to about 2 inches, over color 59A.

**Petal Color Upper Surface When Opened:** Red Purple 59B with an oblong black blotch above the base.

**Petal Color Lower Surface When Opened:** Closest to 59B.

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**Petal Color Lower Surface Base:** Black venation lines extending to about 2 inches, over color 59B.

**Peduncle/Flowering Stems:**

**Length:** About 36 inches.

**Diameter:** About ½ inch.

**Strength:** Excellent, fully supporting the weight of the flowers, thick, upright, and self supporting.

**Texture:** Hispid with pale grey to greenish white, horizontal hairs to lower stem and flat hairs to upper part of stem.

**Peduncle/Stem Color:** 137D.

**Peduncle Leaves:** Smaller leaves attached to the stem at irregular intervals.

**Length of Smaller Leaves:** Varying from 4.5 inches to 8 inches.

**Calyx/Sepal Arrangement:**

**Calyx Length:** About 2.25 inches.

**Calyx Width:** About 1.5 inches.

**Sepal Number:** Typically 3.

**Sepal Shape:** Elliptic.

**Sepal Apex:** Mucronate.

**Sepal Margin:** Entire.

**Sepal Margin Color:** 149D.

**Sepal Color Outer Surface:** Nearest 137C to 137D with maroon to purple dot markings nearest 71A.

**Sepal Color Inner Surface:** Nearest 149D.

**Sepal Texture:** Hispid, covered with pale greenish to red/purple hairs.

**Length of hairs:** 1/8 inch ¼ inch.

**Diameter of hairs:** Very fine.

**Bracts:** Irregular, medium to small, with white hirsute edges to apex and margins.

**Length:** 1.5 inches to 2.5 inches.

**Color (Upper surface):** 137D, veins 143B.

**Color (Lower surface):** 137C, veins 143B.

**Scales:** Obtuse with white hispid margins and apex. Scales not constant.

**Scale Color:** 137D.

**Reproduction Organs:**

**Stamen Quantity:** Numerous, typically more than 200.

**Anther Shape:** Basifixed.

**Anther Length:** About 3/16 inch.

**Anther Color:** 202A.

**Pollen Amount:** Scarce.

**Pistil Quantity:** One.

**Pistil Length:** About 1/8<sup>th</sup> inch.

**Stigma Color:** 200A.

**Seed or Poricidal Capsule:**

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The instant plant has very large, attractive seed capsule adding to the uniqueness,

(See Figure 1., Lower Photograph and Figure 3.) with pronounced indented markings on the top edge of the pericarp even when unripe and in flower.

**Color When in Flower:** Nearest to 142D.

**Length:** About 1.5 inches.

**Diameter:** About 1.25 inches.

**Color of Seed Capsule:** 133D.

**Seed Description:**

**Length:** 1/16<sup>th</sup> inch.

**Diameter:** 1/16<sup>th</sup> inch.

**Seed Color:** Dull dark brown.

**Disease Resistance:** The instant plant has been noted to be free of pathogens common to Papaver.

**Weather Tolerance:** The instant plant is tolerant to rain, wind, and U.V. rays.

**Comparisons:**

The instant plant differs from its male parent in the following ways:

1. 'Heartbeat' plants are faster growing than the male parent in all climate zones.
2. 'Heartbeat' plants produce more flowers in total than the male parent.

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3. 'Heartbeat' plants have a longer flowering season than the male parent.

4. Flowers of 'Heartbeat' have a distinct, much deeper purple/red, nearest color 59A to 59B.

The instant plant is a new hybrid poppy plant and there are no other poppies known to the inventor for comparison.--.

**Amendment to the Abstract:**

The Abstract has been amended as follows:

A. The Abstract has been deleted and a new Abstract has been entered:

**--Abstract**

The present invention relates to a new and distinct cultivar of Papaver plant named 'Heartbeat' characterized by having an upright habit, with thick supporting stems, dark, glossy green foliage, large semi-double purple/maroon flowers, thick, glossy flower petals, that withstand the rigors of ultraviolet rays, rain, and wind and therefore flowers for a long period, and a vigorous growth habit.--.

**Amendment to The Claim:**

The Claim has been amended as follows:

A. The Claim has been deleted and a new Claim has been entered:

--1. A new and distinct Papaver plant named 'Heartbeat, as illustrated and described herein.--.

**Future Correspondence**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kent L. Bell whose telephone number is (571) 272-0973. The Examiner can normally be reached Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Anne Marie Grunberg, can be reached at (571) 272-0975.

The fax phone number for the group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.

K. L. Bell

/Kent L. Bell/

Primary Examiner, Art Unit 1661